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Historic Preservation Tax Incentives Program

The First 20 Years

This *CRM* issue marks the 20th anniversary of the federal historic Preservation Tax Incentives program. In 1976, President Ford signed the initial tax incentives legislation, and in the following year the National Park Service established the administrative program. In 1977, the Schlegal Corporation submitted the first project in the nation for its rehabilitation of the Sibley House in Rochester, New York, for use as corporate offices.

Since 1977, the preservation tax incentives have generated more than $17 billion in private investment in the rehabilitation of more than 25,000 projects across the country. Through a partnership with the State Historic Preservation Offices, the National Park Service has carried out the program in a manner that has been noted for its administrative effectiveness, according to a study by the U.S. General Accounting Office. The Preservation Tax Incentives program also has been recognized for its contributions to the nationwide improvement of rehabilitation design involving historic buildings, receiving a prestigious Presidential Design Award from President Reagan. Further testimony to the success of the program comes from abroad where other countries have modeled historic preservation tax incentives based on our experience.

The roots of the Preservation Tax Incentives program can be traced back to 1966 when Congress declared as part of the national historic preservation policy that "the historical and cultural foundations of the Nation should be preserved as a living part of our community and development in order to give a sense of order to the American people." In 1976, the Congress took the first step to redress the bias of the federal tax system against the preservation and re-use of our nation's historic buildings. The Tax Reform Act of 1976 started the process of bringing federal tax policy into harmony with federal preservation policy. Five years later, further changes in the federal tax laws were enacted as part of the Economic Recovery Tax Act of 1981. This legislation acknowledged the dramatic impact of federal assistance through the tax laws on historic properties and marked the most significant effort to foster historic preservation through national tax policies.

The passage of the Tax Reform Act in 1986 marked a maturing of the relationship between national tax and preservation policies. While it resulted in a modest reduction in the historic preservation credit from 25% to 20%, it imposed several significant restrictions on all forms of real estate investment. The 1986 tax law changes had a dramatic effect on real estate development overall and led to a greatly reduced use of the preservation tax incentives in the ensuing years. With an upswing in the economy by the mid-1990s being experienced in most areas of the country and with various adjustments in real estate development, the size and number of projects being undertaken utilizing the preservation tax incentives has noticeably increased. Historic properties at risk for more than 10 years are beginning to attract the interest of corporate investors and real estate groups.

The Process

Under current law, a taxpayer who renovates a historic building may qualify for a tax credit equal to 20% of the rehabilitation expenditures. The property must be used for income-producing purposes and be a "certified historic structure" and the rehabilitation has to be certified as "consistent with the historic character of the property." The National Park Service exercises responsibility for making these certifications.

The process of certifying rehabilitations of historic structures for purposes of federal preservation tax incentives was established by the National Park Service in 1977. All projects are reviewed for conformance with the *Secretary of the Interior's Standards for Rehabilitation*. First published in the *Federal Register* in 1977, and revised in 1990, the *Secretary's Standards* are widely used in preservation programs at the federal, state, and local government levels.

Applicants seeking to utilize the preservation tax incentives work through their State Historic Preservation Office. In each state office, professional staff advise property owners and project architects how to qualify their projects for the tax credits by reviewing most projects prior to construction. States forward applications to the National Park Service with recommendations whether the projects meet the *Secretary's Standards*. Over 95% of the applicants receive National Park Service approval of their projects, although in over 30% of the cases, either the state or the National Park Service provide recommendations that are incorporated by the owner into their rehabilitation efforts.

Administration

Between 1977 and 1981, rehabilitation projects were reviewed by the Technical Preservation Services Division of the National Park Service. Located in Washington, DC, this office retained overall administrative responsibility for the program in the years after 1981 when applications were reviewed first in seven and later in five of the regional offices of the National Park Service. With increased staffing and closer proximity to states and rehabilitation activity, the regional offices were in a better position to respond to the dramatic increase in workload that occurred between 1981 and 1986.

Throughout the 20-year-history of the program, the National Park Service has placed a major emphasis on education and training programs for individuals involved in rehabilitations of historic properties. The Technical Preservation Service's nationally-acclaimed publication series has been specially geared to the rehabilitation practitioner, providing guidance and practical methods for successfully preserving historic features, materials, and spaces as well as offering sound planning approaches and design solutions to problematic issues.

The benefits of the training and publication programs have enabled the National Park Service to implement the recent recentralization of the project review activity back into Technical Preservation Services (TPS). Now part of the Heritage Preservation Services Program and located in the National Center for Cultural Resource Stewardship and Partnership Programs in Washington, DC, TPS is nearing completion of the recentralization of the certification program. This effort is being undertaken in the midst of a reduction in the National Center staffing level. Maintaining service while reducing program staff is usually difficult to achieve. However, by drawing upon the achievements of the program, including its training and publication activities, and with the cooperation of the experienced State Historic Preservation Offices, the goals of recentralization and downsizing are being achieved.

To ensure the effective administration of the program into the next century, a number of new measures are being taken over the next several years. This summer, TPS will offer online, through the National Park Service's homepage, a weekly status report on a taxpayer's certification application, which will be accessible to individual taxpayers and State Historic Preservation Offices. This past winter, a completely revised and updated booklet, *Preservation Tax Incentives*, was published, which provides easier to understand information about the tax credits and how to apply for them. To improve communications with State Historic Preservation Office staff, a regular newsletter was launched this spring. TPS also will renew emphasis on public outreach in encouraging the use of the Preservation Tax Incentives program.

Rehabilitation and the Secretary's Standards

The investment tax credit for real estate passed in 1981 and modified in 1986 was designed to promote the rehabilitation and productive use of older buildings. Specified wall tests and other requirements set forth by the Treasury Department in defining rehabilitation expenditures meant that substantial changes to existing buildings, such as extensive demolition and major structural alterations and new additions, would not qualify either for the 20% tax credit or the 10% credit available for certain non-historic buildings built before 1939.

While the Treasury Department and the National Park Service have worked closely together over the years to insure the successful use of the Preservation Tax Incentives, the principle of rehabilitation has meant that some historic preservation solutions do not qualify, particularly where only a portion of a historic building can be saved. In the preponderance of cases, however, "rehabilitation" as set forth by the Treasury Department and its Internal Revenue Service and the *Secretary of the Interior's Standards for Rehabilitation*, as issued and applied by the National Park Service, have complemented each other in encouraging the sensitive rehabilitation of historic buildings.

At the inception of the Preservation Tax Incentives program, most regulatory bodies involved in promoting historic preservation confined their review to the exteriors of buildings where those facades were prominently visible to the public view. This meant that the interiors of historic buildings in private ownership, whether richly detailed or not and no matter what historic event may have taken place inside, were largely unprotected from insensitive alteration or demolition. With the preservation tax incentives, a major inducement was made available for the first time to encourage the sensitive rehabilitation of the entire historic resource. Because the *Secretary's Standards* were designed to address the historic character of the entire building—not just a facade—this meant that work involving the interior as well as the exterior of a historic building was subject to review in cases where owners were seeking a federal tax credit for rehabilitation. Thus, in the early days of the program, before the New York City Landmarks Commission had any review jurisdiction over the magnificent lobby of the Chrysler Building (a National Historic Landmark), the building owners worked with the New York State Historic Preservation Office and the National Park Service and modified their plans for significant alterations to the lobby in order to qualify for the federal tax credits.

As an integral part of the National Park Service's certification program for tax credits, the

Secretary of the Interior's Standards for Rehabilitation and accompanying *Guidelines* for applying the *Standards* have become the single most used document on appropriate preservation design and practice. For a project to qualify as a "certified rehabilitation," it must meet all 10 Standards.

Through the *Standards* and accompanying *Guidelines*, the National Park Service created a framework that encourages the rehabilitation and use of a historic property while providing for the preservation of its historic character. Twenty years and more than 25,000 projects later, the *Standards* have clearly stood the test of time. They have shown to be effective as both a rehabilitation and a preservation tool. The doubling last year of the number of affordable housing units created and approved as meeting the *Standards* for purposes of the preservation tax incentives nearly beat the record number set at the peak of the economic boom before the 1986 tax law changes. This is a clear indicator of how the *Standards* can be successfully applied to a wide range of projects.

The Preservation Tax Incentives program has been used by the National Park Service as a catalyst in promoting sound preservation practices by rehabilitation practitioners, while providing for economic revitalization of our older communities. In conjunction with the education and training programs and publications, the Preservation Tax Incentives program, for example, quickly led to a significant reduction in the use of abrasive cleaning methods on historic masonry; brought about over the years major improvements in the quality of window work; and fostered a recognition of the importance of preserving buildings, features, and materials from our "recent past." From issues concerning lead paint, asbestos, and other health hazards to fire protection and compliance with new legislation affecting the built environment, such as the Americans with Disabilities Act, the Preservation Tax Incentives program brings about an awareness among rehabilitation practitioners as to how buildings can be upgraded and revitalized for new or continued uses without altering their historic character.

The past 20 years have witnessed major challenges to preserving neighborhoods, our quality of life, and our rich architectural heritage. The Preservation Tax Incentives program continues to be one of the most successful means to achieve these goals—a program that relies on federal tax incentives, public education, and a partnership with the states to encourage private investment in our future.

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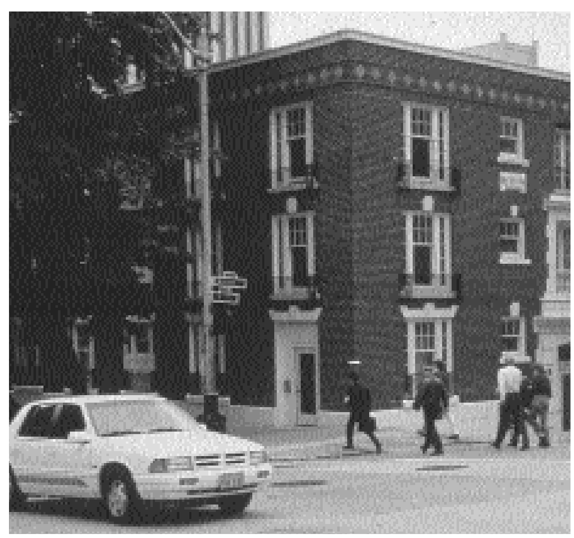
Brooks Prueher

Historic Buildings For Affordable Housing

Accommodating affordable housing in historic buildings is one of the great success stories of the Preservation Tax Incentives program. Many rehabilitation units are located in residential structures, such as historic apartment buildings and hotels. New housing units also have been carved out of deteriorated and vacant factories and commercial buildings. Developers in communities like Abilene, Seattle, and Atlanta are finding that affordable housing in historic buildings takes advantage of quality building stock and existing infrastructure, and successfully meets the housing needs that are concentrated in city centers. Since 1976, the Preservation Tax Incentives program has generated more than 148,430 units of rehabilitated and 73,390 new housing units. In 1996 alone, more than 5,537 units of rehabilitated and 6,008 new housing units were created. Because of this 20-year track record, the preservation tax incentives gained a reputation as one of the most successful urban reinvestment tools implemented by the federal government.



Rehabilitation at the Pacific Hotel in Seattle, WA, included converting the first floor corner window into an accessible entrance. Photo courtesy Stickney & Murphy Architects.

Affordable housing is an umbrella term for below-market-rate residences provided through multiple state and federal programs. Affordable